

Farm Credit Administration

§ 608.811

state the basis on which the claim is disputed.

(c) The FCA shall promptly notify the debtor, in writing, that the FCA has received the request for review. The FCA shall conduct its review of the claim in accordance with § 608.810.

(d) Upon completion of its review of the claim, the FCA shall notify the debtor whether the FCA's determination of the existence or amount of the debt has been sustained, amended, or canceled. The notification shall include a copy of the written decision issued by the hearing official pursuant to § 608.810(e). If the FCA's determination is sustained, this notification shall contain a provision which states that the FCA intends to collect the debt by all legally available means, which may include initiating legal action against the debtor, referring the debt to a collection agency for collection, collecting the debt by offset, or asking other Federal agencies for assistance in collecting the debt by offset.

§ 608.810 Review procedures.

(a) Unless an oral hearing is required by § 608.823(d), the FCA's review shall be a review of the written record of the claim.

(b) If an oral hearing is required under § 608.823(d), the FCA shall provide the debtor with a reasonable opportunity for such a hearing. The oral hearing, however, shall not be an adversarial adjudication and need not take the form of a formal evidentiary hearing. All significant matters discussed at the hearing, however, will be carefully documented.

(c) Any review required by this part, whether a review of the written record or an oral hearing, shall be conducted by a hearing official. In the case of a salary offset, the hearing official shall not be under the supervision or control of the Chairman of the Farm Credit Administration.

(d) The FCA may be represented by legal counsel. The debtor may represent himself or herself or may be represented by an individual of the debtor's choice and at the debtor's expense.

(e) The hearing official shall issue a final written decision based on documentary evidence and, if applicable, information developed at an oral hearing.

The written decision shall be issued as soon as practicable after the review but not later than 60 days after the date on which the request for review was received by the FCA, unless the debtor requests a delay in the proceedings. A delay in the proceedings shall be granted if the hearing official determines, in his or her sole discretion, that there is good cause to grant the delay. If a delay is granted, the 60-day decision period shall be extended by the number of days by which the review was postponed.

(f) Upon issuance of the written opinion, the FCA shall promptly notify the debtor of the hearing official's decision. Said notification shall include a copy of the written decision issued by the hearing official pursuant to paragraph (e) of this section.

§ 608.811 Special review.

(a) An employee subject to salary offset, under subpart C of this part, or a voluntary repayment agreement, may, at any time, request a special review by the FCA of the amount of the salary offset or voluntary repayment, based on materially changed circumstances such as, but not limited to, catastrophic illness, divorce, death, or disability.

(b) To determine whether an offset would prevent the employee from meeting essential subsistence expenses (costs incurred for food, housing, clothing, transportation, and medical care), the employee shall submit a detailed statement and supporting documents for the employee, his or her spouse, and dependents indicating:

- (1) Income from all sources;
- (2) Assets;
- (3) Liabilities;
- (4) Number of dependents;
- (5) Expenses for food, housing, clothing, and transportation;
- (6) Medical expenses; and
- (7) Exceptional expenses, if any.

(c) If the employee requests a special review under this section, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents, showing why the current salary offset or payments result in an extreme financial hardship to the employee.

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(d) The FCA shall evaluate the statement and supporting documents, and determine whether the original offset or repayment schedule imposes an undue financial hardship on the employee. The FCA shall notify the employee in writing of such determination, including, if appropriate, a revised offset or payment schedule.

§ 608.812 Charges for interest, administrative costs, and penalties.

(a) Except as provided in paragraph (d) of this section, the FCA shall:

- (1) Assess interest on unpaid claims;
- (2) Assess administrative costs incurred in processing and handling overdue claims; and

(3) Assess penalty charges not to exceed 6 percent a year on any part of a debt more than 90 days past due. The imposition of charges for interest, administrative costs, and penalties shall be made in accordance with 31 U.S.C. 3717.

(b)(1) Interest shall accrue from the date of mailing or hand delivery of the initial demand for payment or the Notice of Intent to Collect by either Administrative or Salary Offset if the amount of the claim is not paid within 30 days from the date of mailing or hand delivery of the initial demand or notice.

(2) The 30-day period may be extended on a case-by-case basis if the FCA reasonably determines that such action is appropriate. Interest shall only accrue on the principal of the claim and the interest rate shall remain fixed for the duration of the indebtedness, except, as provided in paragraph (c) of this section, in cases where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, or if the FCA reasonably determines that a higher rate is necessary to protect the interests of the United States.

(c) If a debtor defaults on a repayment agreement and seeks to enter into a new agreement, the FCA may assess a new interest rate on the unpaid claim. In addition, charges for interest, administrative costs, and penalties which accrued but were not collected under the original repayment agreement shall be added to the principal of the claim to be paid under the new re-

payment agreement. Interest shall accrue on the entire principal balance of the claim, as adjusted to reflect any increase resulting from the addition of these charges.

(d) The FCA may waive charges for interest, administrative costs, and/or penalties if it determines that:

(1) The debtor is unable to pay any significant sum toward the claim within a reasonable period of time;

(2) Collection of charges for interest, administrative costs, and/or penalties would jeopardize collection of the principal of the claim;

(3) Collection of charges for interest, administrative costs, or penalties would be against equity and good conscience; or

(4) It is otherwise in the best interest of the United States, including the situation where an installment payment agreement or offset is in effect.

§ 608.813 Contracting for collection services.

The Chairman, or designee of the Chairman, may contract for collection services in accordance with 31 U.S.C. 3718 and 4 CFR 102.6 to recover debts.

§ 608.814 Reporting of credit information.

The Chairman, or designee of the Chairman, may disclose to a consumer reporting agency information that an individual is responsible for a debt owed to the United States. Information will be disclosed to reporting agencies in accordance with the terms and conditions of agreements entered into between the FCA and the reporting agencies. The terms and conditions of such agreements shall specify that all of the rights and protection afforded to the debtor under 31 U.S.C. 3711(f) have been fulfilled. The FCA shall notify each consumer reporting agency, to which a claim was disclosed, when the debt has been satisfied.

§ 608.815 Credit report.

In order to aid the FCA in making appropriate determinations regarding the collection and compromise of claims; the collection of charges for interest, administrative costs, and penalties; the use of administrative offset; the use of other collection methods;